

Employee Plan Deficiency Checksheet
Coverage and Nondiscrimination Requirements: Defined Benefit
Plans Attachment #5A

Form 9640 (Rev. 04/2000)
Cat. No. 20616I

For IRS Use	Please furnish the amendment(s) requested in the section(s) checked below.
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I. Please submit a completed Schedule Q (Form 5300), including all required attachments.

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II.b. It must be demonstrated that the plan satisfies the nondiscriminatory classification requirement on an employer-wide basis. IRC section 410(b)(5)(B) and Regs. section 1.414(r)-8(b)(2).

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II.c. It must be demonstrated that the plan satisfies the special testing rule for employer-wide plans where the requirements of section 410(b) or section 401(a)(26) of the Code are applied on an employer-wide basis. Regs. sections 1.414(r)-1(c)(2)(ii) and 1.414(r)-1(c)(3)(ii).

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III.a. Submit a demonstration that the plan satisfies the participation requirements of section 401(a)(26) with respect to employees. IRC section 401(a)(26) and Regs. sections 1.401(a)(26)-1 through 1.401(a)(26)-9.

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III.b. Submit a demonstration that the plan satisfies the participation requirements of section 401(a)(26) with respect to former employees. IRC section 401(a)(26) and Regs. section 1.401(a)(26)-4.

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III.c. Submit a demonstration that the plan satisfies the participation requirements of section 401(a)(26) with respect to its prior benefit structure. IRC section 401(a)(26) and Regs. section 1.401(a)(26)-3.

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IV.b. Please submit the information required by the instructions for Schedule Q (Form 5300) regarding plans that are disaggregated, permissively aggregated, or restructured.
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IV.c. Your application indicates that the plan is (a) permissively aggregated with another plan, (b) mandatorily disaggregated, or (c) restructured into component plans. Therefore, you must submit information concerning coverage and nondiscrimination on the basis of the aggregated plan, if applicable, or separately with respect to the separate disaggregated plans or restructured component plans. Please submit this information in accordance with the instructions for Schedule Q (Form 5300). Regs. sections 1.410(b)-7 and 1.401(a)(4)-1(c)(4).
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V.a. It must be demonstrated that the plan satisfies the "ratio percentage test" described in section 410(b)(1)(B) of the Code with respect to employees. Alternatively, please tell us if you would like our determination to take into account whether the plan satisfies the average benefit test in section 410(b)(2) of the Code. If so, submit a demonstration that the plan satisfies this test. Refer to the guidelines concerning a demonstration of the average benefit test in the instructions for Schedule Q (Form 5300). IRC sections 410(b)(1) and 7701(a)(46), and Regs. sections 1.410(b)-2 through 1.410(b)-10.
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V.b. Please submit a demonstration that the plan satisfies the average benefit test in section 410(b)(2) of the Code. Refer to the guidelines concerning a demonstration of the average benefit test in the instructions for Schedule Q (Form 5300). IRC section 410(b)(2).
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V.b.(i) Please submit a demonstration that the plan satisfies the nondiscriminatory classification test described in section 1.410(b)-4 of the regulations. IRC section 410(b)(2)(A)(i) and Regs. section 1.410(b)-2(b)(3).

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V.b. (ii) Please submit a demonstration that the plan satisfies the average benefit percentage test described in section 1.410(b)-5 of the regulations. Refer to the guidelines concerning a demonstration of the average benefit test in the instructions for Schedule Q (Form 5300). IRC section 410(b)(2)(A)(ii) and Regs. section 1.410(b)-2(b)(3).

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V.c. Submit a demonstration that the plan satisfies the minimum coverage requirements of section 410(b) of the Code with respect to former employees. IRC section 410(b)(1) and Regs. section 1.410(b)-2(c).

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VI.b. You have requested a determination of whether benefits, rights, or features satisfy the nondiscriminatory current availability requirement under section 1.401(a)(4)-4(b) of the regulations. Please identify each specific benefit, right, or feature you wish considered. See the guidelines pertaining to this demonstration in the instructions for Schedule Q (Form 5300). Regs. section 1.401(a)(4)-4(b).

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VI.c. Please submit a demonstration that the benefit, right, or feature described in section _____ of the plan meets the nondiscriminatory current availability requirement under section 1.401(a)(4)-4(b) of the regulations. See the guidelines pertaining to this demonstration in the instructions for Schedule Q (Form 5300). Regs. section 1.401(a)(4)-4(b).

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VII.a. Please submit a demonstration in accordance with the instructions for Schedule Q (Form 5300) that the timing of the grant of past service credit provided in section _____ of the plan does not have the effect of discriminating significantly in favor of highly compensated employees. Alternatively, this section of the plan should be amended so that the grant of past service conforms to the safe harbor described in section 1.401(a)(4)-5(a)(3) of the regulations. Regs. section 1.401(a)(4)-5(a).

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VII.b. Please submit a demonstration in accordance with the instructions for Schedule Q (Form 5300) that the manner in which service is credited under section _____ of the plan is nondiscriminatory. Regs. section 1.401(a)(4)-11(d).

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VIII.a. Section _____ of the plan should be amended to provide that in the event of termination of the plan the benefit of any active or former highly compensated employee will be limited to a benefit that is nondiscriminatory under section 401(a)(4) of the Code. This section of the plan should also be amended to provide that except in the circumstances described in the next sentence distributions to the 25 most highly compensated active and former highly compensated employees will be restricted to an amount no greater than the amount that would be paid to the individual under a straight life annuity that is the actuarial equivalent of the employee's accrued benefit and the employee's other benefits under the plan (other than a social security supplement), plus any social security supplement the employee is entitled to receive. This restriction does not apply if: (a) after payment of the benefit to the restricted employee, the value of plan assets equals or exceeds 110 percent of the value of current liabilities as defined in section 412(l)(7), (b) the value of the benefits for the restricted employee is less than 1 percent of the value of current liabilities before distribution, or (c) the value of the restricted employee's benefits does not exceed \$5,000. Further, the plan may provide that distribution of restricted amounts may be made provided the terms of the plan require adequate security to guarantee repayment of the restricted amount upon plan termination. Regs. section 1.401(a)(4)-5(b) and Rev. Rul. 92-76, 1992-38 I.R.B.

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VIII.b. Section _____ of the plan should be amended so that the manner in which employees vest in their benefits under the plan is nondiscriminatory. Regs. section 1.401(a)(4)-11(c).

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VIII.c.

- (i) Please submit a demonstration that the plan is nondiscriminatory with respect to the amount of contributions or benefits provided to former employees. Regs. section 1.401(a)(4)-10(b).

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VIII.c.

- (ii) Please demonstrate, with respect to section _____ of the plan, that the plan satisfies the requirement that it be nondiscriminatory with respect to the availability of benefits, rights, or features provided to former employees. Regs. section 1.401(a)(4)-10(c).

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IX.

Please indicate whether this plan is part of a floor-offset arrangement intended to satisfy the requirements of section 1.401(a)(4)-8(d) of the regulations. If so, please submit the information required by Schedule Q (Form 5300). Regs. section 1.401(a)(4)-8(d).

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X.b.

Please submit a demonstration that the plan satisfies a general test for nondiscrimination in the amounts of contributions or benefits under the plan. Refer to the guidelines concerning a demonstration of a general test in the instructions for Schedule Q (Form 5300). IRC section 401(a)(4) and Regs. sections 1.401(a)(4)-2(c), 1.401(a)(4)-3(c), 1.401(a)(4)-8(b)(2), 1.401(a)(4)-8(c)(2), and 1.401(a)(4)-8(c)(3)(iii)(C).

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X.c.

Please submit a demonstration that the plan satisfies the alternative safe harbor for flat benefit plans. Refer to the guidelines concerning a demonstration of this safe harbor in the instructions for Schedule Q (Form 5300). IRC section 401(a)(4) and Regs. section 1.401(a)(4)-3(b)(4)(i)(C)(3).

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XI.a.

Section _____ of the plan should be amended to satisfy the uniformity requirements that apply to safe harbor plans under section 1.401(a)(4)-3(b)(2) of the regulations. IRC section 401(a)(4) and Regs. section 1.401(a)(4)-3(b)(2).

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XI.a.(i) Section _____ of the plan should be amended to satisfy the safe harbor for unit credit plans described in section 1.401(a)(4)-3(b)(3) of the regulations. IRC section 401(a)(4) and Regs. section 1.401(a)(4)-3(b)(3).

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XI.a.(ii) Section _____ of the plan should be amended to satisfy the fractional rule unit credit plan safe harbor described in section 1.401(a)(4)-3(b)(4)(i)(C)(1) of the regulations. IRC section 401(a)(4) and Regs. section 1.401(a)(4)-3(b)(4)(i)(C)(1).

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XI.a.
(iii) Section _____ of the plan should be amended to satisfy the fractional rule flat benefit plan safe harbor described in section 1.401(a)(4)-3(b)(4)(i)(C)(2) of the regulations. IRC section 401(a)(4) and Regs. section 1.401(a)(4)-3(b)(4)(i)(C)(2).

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XI.a.(iv) Section _____ of the plan should be amended to satisfy the insurance contract plan safe harbor described in section 1.401(a)(4)-(b)(5) of the regulations. IRC section 401(a)(4) and Regs. section 1.401(a)(4)-(b)(5).

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XI.a.(v) Section _____ of the plan should be amended to satisfy the cash balance plan safe harbor described in section 1.401(a)(4)-8(c)(3)(iii)(B) of the regulations. IRC section 401(a)(4) and Regs. section 1.401(a)(4)-8(c)(3)(iii)(B).

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XI.b. To meet the safe harbor requirement of section 1.401(a)(4)-3(b)(6)(vii) of the regulations, the plan should be amended to satisfy the fresh-start requirements of section 1.401(a)(4)-13(c). Regs sections 1.401(a)(4)-3(b)(6)(vii) and 1.401(a)(4)-13(c).

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XII.a. A contributory defined benefit plan will not satisfy a safe harbor unless it would do so if the plan's benefit formula provided benefits at employer-provided benefit rates determined under section 1.401(a)(4)-6(b) of the regulations. Please submit a demonstration that this requirement is satisfied. Alternatively, section _____ of the plan may be amended to satisfy this requirement. Regs. section 1.401(a)(4)-3(B)(6)(viii).

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XII.b. Please submit a demonstration that the plan satisfies the requirements of the composition-of-workforce method for determining the employer-provided benefit in section 1.401(a)(4)-6(b)(2) of the regulations.

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XII.c. Please submit a demonstration that benefits provided on account of employee contributions at lower levels of compensation are comparable to those provided on account of employee contributions at higher levels of compensation. Regs. section 1.401(a)(4)-6(c)(4)(ii)(D).

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XIII.a. The definition of compensation contained in section _____ of the plan should be amended to conform to one of the definitions described in sections 1.414(s)-1(c)(2) and 1.414(s)-1(c)(3) of the regulations. Alternatively, submit a demonstration that the plan's definition of compensation is nondiscriminatory. IRC section 414(s) and Regs. section 1.414(s)-1.

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XIII.b. Section _____ of the plan should be amended to define compensation for self-employed individuals in the manner described in section 1.414(s)-1(g)(1) of the regulations. IRC section 414(s) and Regs. section 1.414(s)-1(g)(1).